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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/420,616	10/18/1999	WILLIAM JOSEPH BEYDA	99P7918US	3051

7590   11/19/2002

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER
DUONG, FRANK

ART UNIT	PAPER NUMBER
2666	

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _18 October 1999_ .

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under _Ex parte Quayle_, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-15_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-15_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _18 October 1999_ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _2-3_ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

1. This Office Action is a response to the communication dated 10/18/1999. Claims 1-15 are pending in the application.

Information Disclosure Statement

2. The information disclosure statements filed 10/18/1999 and 04/23/2001 comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. They have been considered and placed in the application file.

Specification

3. The disclosure is objected to because of the following informalities:

   Page 6, line 25, "FIG. 3" should read --FIG. 4--.

Appropriate correction is required.

Drawings

4. The drawings are objected to because of the following informality:

   FIG. 4, block 308, the branch from 308 to 312 should read --N--, and the branch from 308 to 310 should read --Y--.

   A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 9 is objected to because of the following informalities:

Lines 3-4, "said plurality" should read --said plurality of said endpoints--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

6. Claims 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

Regarding **claim 5**, line 3, "said jitter buffer" lacks of antecedent basis.

Claims 6-8 variously depend from their indefinite parent claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the
> United States before the invention thereof by the applicant for patent, or on an international application
> by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this
> title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act

of 1999 (AIPA) do not apply to the examination of this application as the application

being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

published under 35 U.S.C. 122(b). Therefore, this application is examined under 35

U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7.   Claims 9-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Guy et al

(USP 5,940,479) (hereinafter "Guy").

Regarding **claim 9**, in accordance with Guy reference entirety, Guy shows a

telecommunication system (FIGs. 1 and 3) comprising:

a packet network (104);

a plurality of endpoints (*101A and 101B*) coupled to said packet network (104),

each of said plurality of said endpoints including a jitter buffer (316);

wherein each of said plurality of endpoints including a jitter buffer controller (320)

configured to adjust a packet size for communication over said packet network (*see col.

17, line 39 to col. 18, line 14*).

Regarding **claim 13**, in addition to features recited in base claim 9 (see

rationales pertaining the rejection of base claim 9 discussed above), Guy further

discloses wherein said endpoints comprise client terminals (*106, 108 and 129*).

Regarding **claim 14**, in accordance with Guy reference entirety, Guy shows a

telecommunication system (FIGs. 1, 2 and 3) comprising:

a codec (*FIG. 2 ; block 206A*);

a jitter buffer (*FIG. 2; block 206B and FIG. 3; block 316*) coupled to an input of

the codec;

a packetizer (*FIG. 2; block 206B and FIG. 3; blocks 318 and 320*) coupled to an

output of the codec; and

a controller (FIG. 2; block 206B and FIG. 3; block 320) coupled to the codec, the

jitter buffer, and the packetizer, wherein the controller is configured to cause the

packetizer to adjust a packet size if said packet size is related to a jitter buffer size

according to predetermined criteria (*network delay*) (*see col. 17, line 30 to col. 18, line

14*).

Regarding **claim 15**, in addition to features recited in base claim 14 (see

rationales pertaining the rejection of base claim 14 discussed above), Guy further

discloses wherein the predetermined criteria (*network delay*) is a threshold fraction of

the jitter buffer size (*see col. 17, lines 57-58*).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Guy.

Regarding **claim 1**, in accordance with Guy reference entirety, Guy discloses a

telecommunication node (Fig. 3), comprising:

a jitter buffer (316) (see col. 9, lines 34-39);

means for receiving (306, 302 and 304) one or more information packets (*voice signals*), said receiving means including means for storing (304) said one or more information packets in said jitter buffer (*see col. 8, lines 56-63*); and

means for adjusting (320) a length of said one or more information packets based on a network delay (*see col. 9, lines 59-65 and col. 17, line 39 to col. 18, line 4*).

Guy fails to explicitly teach adjusting a length of the packet based on the size of said buffer. However, at col. 17, lines 65-67, Guy discloses increasing the jitter buffer 316 also increases the network delay since the jitter buffer 316 stores the voice frames for a time duration that is proportional to the size of the jitter buffer 316. And at col. 10, lines 64-65, Guy also teaches converting a data packet to a compatible format is apparent to persons skilled in the relevant art.

Thus, it would have been obvious to those skilled in the art to adjust a length of the packet based on the size of the jitter buffer with a motivation to convert voice signals into a network compatible format.

Regarding **claim 2**, in addition to features recited in base claim 1 (see rationales pertaining the rejection of base claim 1 discussed above), Guy further discloses said adjusting means (*320*) including means for adjusting said length to a predetermined fraction (*network delay*) of said size of said jitter buffer (*see col. 17, line 39 to col. 18, line 13*).

Regarding **claim 3**, in addition to features recited in base claim 2 (see rationales pertaining the rejection of base claim 2 discussed above), Guy further discloses means

for monitoring (*320*) a size of said jitter buffer during a communication (*see col. 17, lines 60-61*).

Regarding **claim 4**, in addition to features recited in base claim 3 (see rationales pertaining the rejection of base claim 3 discussed above), Guy further discloses said adjusting means (320) including means responsive to said monitoring means for adjusting said length to a new size of said jitter buffer (316) during said communication (*see col. 17, line 30 to col. 18, line 14*).

Regarding **claim 5**, in accordance with Guy reference entirety, Guy discloses a telecommunication method (*FIG. 3*), comprising:

receiving (306, 302 and 304) one or more information packets, said receiving including storing said one or more information packets in a jitter buffer (316) (*see col. 17, lines 15-38*); and

adjusting (320) a length of said one or more information packets based on a network delay (*see col. 17, line 39 to col. 18, line 14*).

Guy fails to explicitly teach adjusting a length of the packet based on the size of said buffer. However, at col. 17, lines 65-67, Guy discloses increasing the jitter buffer 316 also increases the network delay since the jitter buffer 316 stores the voice frames for a time duration that is proportional to the size of the jitter buffer 316. And at col. 10, lines 64-65, Guy also teaches converting a data packet to a compatible format is apparent to persons skilled in the relevant art.

Thus, it would have been obvious to those skilled in the art to adjust a length of

the packet based on the size of the jitter buffer with a motivation to convert voice signals

into a network compatible format.

Regarding **claim 6**, in addition to features recited in base claim 5 (see rationales

pertaining the rejection of base claim 5 discussed above), Guy further discloses said

adjusting (*320*) including adjusting said length to a predetermined fraction (*network

delay*) of said size of said jitter buffer (*see col. 17, line 39 to col. 18, line 13*).

Regarding **claim 7**, in addition to features recited in base claim 6 (see rationales

pertaining the rejection of base claim 6 discussed above), Guy further discloses

monitoring (*320*) a size of said jitter buffer during a communication (*see col. 17, lines

60-61*).

Regarding **claim 8**, in addition to features recited in base claim 7 (see rationales

pertaining the rejection of base claim 7 discussed above), Guy further discloses said

adjusting (320) including adjusting said length to a new size of said jitter buffer (316)

during said communication (*see col. 17, line 30 to col. 18, line 14*).

9. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guy

in view DataBeam Corporation White Paper (*A Primer on the H.323 Series Standard,

pages 1-17, May 15, 1998*) (hereinafter "DataBeam").

Regarding **claims 10-11**, Guy teaches the features recited in base claim 9 (*see

rationales pertaining the rejection of base claim 9 discussed above*). Moreover, at col.

17, lines 60-62, Guy further discloses jitter buffer 316 has a size that is set by a user as

a configuration protocol.

Guy fails to explicitly discloses wherein said buffer controller is configured to compare a proposed packet size with a threshold value representative of a fraction of said jitter buffer size responsive to an H.323 terminal capability exchange (*negotiate channel usage*).

On the other hand, DataBeam (*see the document entirety*) provides an overview of the H.323 standard providing a foundation for audio, video and data communications across IP-based networks. Specifically, on page 4, DataBeam discloses all H.323 terminals must also support H.245, which is used to negotiate channel usage and capabilities.

It would have been obvious to those skilled in the art to implement the H.323 standard with the negotiating channel usage into Guy's system to arrive the claimed invention with a motivation of allowing users to communicate without concern for compatibility.

Regarding **claim 12**, Guy discloses wherein said jitter buffer controller (320) is configured to monitor a size of said jitter buffer during a communication and adjust a packet to a new size during a communication (*see col. 17, line 39 to col. 18, line 14*).

Thus, Guy in view DataBeam discloses the claimed invention.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jain (USP 6,259,677).

Ohlsson et al (USP 6,452,950).

Cohen et al (USP 5,825,771).

Cohen et al (WO 96/15598).

Bessette (WO 95/22233).

Ward et al (EP 0921666).

Report No. 45, A Technical Report on Speech Packetization, T1A1.7 Working Group, pages 1-24, December 1995.

Stone et al, An Empirical Study of Delay Jitter Management Policies, University of North Carolina, pages 1-20, July 1994.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Duong whose telephone number is (703) 308-5428. The examiner can normally be reached on 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (703) 308-5463. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

DAVID VINCENT 11/14/02
PRIMARY EXAMINER

November 13, 2002

Frank Duong